



Town of Boxborough, Massachusetts  
Planning Department  
***REVISED*** Staff Report – Site Plan Approval

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Prepared by: Adam Duchesneau, AICP, Town Planner

August 25, 2016

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**Site: 1034 & 1102 Massachusetts Avenue**

**Applicant Name:** Phaneuf RT (Lawn Barber, Inc.)

**Applicant Address:** 1034 Massachusetts Avenue, Boxborough, MA 01719

**Property Owner 1 Name:** Phaneuf Realty Trust

**Property Owner 1 Address:** 1034 Massachusetts Avenue, Boxborough, MA 01719

**Property Owner 2 Name:** Neil Phaneuf Jr./Kerstin Phaneuf

**Property Owner 2 Address:** 23 State Road, Stow, MA 01775

**Surveyor Name:** R. Wilson & Associates

**Surveyor Address:** 360 Massachusetts Avenue, Acton, MA 01720

Legal Notice: In accordance with Boxborough Zoning Bylaw Section 8000 Site Plan Approval and the Site Plan Approval Rules & Regulations, the Planning Board will conduct a public hearing on Monday, April 4, 2016 at 7:45 PM in the Upstairs Meeting Room in the Boxborough Town Hall, 29 Middle Road, to review the application submitted by Phaneuf RT (Lawn Barber, Inc.) for Site Plan Approval to allow the erection of a free standing hoop house structure, relocation of parking spaces, repositioning of landscape and masonry materials and other storage, and other site improvements.

The subject properties are located on the south side of Massachusetts Avenue/Route 111 and addressed as 1034 and 1102 Massachusetts Avenue; Assessor's Parcel Numbers 14-002-000 and 13-014-000.

Zoning District(s): Industrial-Commercial Zoning District

Zoning Approval Sought: Site Plan Approval under Section 8000

Date of Application: March 15, 2016

Date(s) of Public Hearing: April 4, 2016, May 23, 2016, July 18, 2016, ***and August 29, 2016***

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**I. Project Description**

1. Subject Property: The project site is located on the south side of Massachusetts Avenue/Route 111. The entire 1.1 acre property at 1034 Massachusetts Avenue is occupied by Lawn Barber, Inc., originally a landscaping contractor business, but which now primarily operates as a manufacturing use cutting stone. The property contains an approximately 800 square foot office building, a two-story 1,750 square foot CMU garage building, a recently constructed 1,600 square foot hoop house ***building***, various landscaping material and equipment storage shelters, and associated parking. Lawn Barber, Inc. also leases portions of land from the adjacent property to the west, 1102 Massachusetts Avenue, for stone material and product storage, parking, and equipment storage. Lawn Barber, Inc. has also reached an agreement to acquire 3,319 square feet (0.076 acres) of the adjacent property to permanently add to their

1034 Massachusetts Avenue property. The property at 1034 Massachusetts Avenue was awarded a Special Permit in 1998 from the Zoning Board of Appeals to erect a freestanding sign; Site Plan Approval in 2005 from the Planning Board to establish a landscaping business (Lawn Barber, Inc.), construct a 40 foot by 40 foot addition onto one of the existing buildings, erect a freestanding sign, and other site improvements; a Special Permit in 2006 from the Zoning Board of Appeals to erect a freestanding sign and extend a pre-existing nonconforming structure; and a Special Permit in 2015 from the Zoning Board of Appeals to erect a freestanding sign.

2. Proposal: In 2005, the Applicant received Site Plan Approval from the Planning Board to operate a landscaping business out of the property. Since that time, over the course of the last decade, the Applicant has expanded the stone cutting portion of their business significantly, erected a new **building**, relocated material and equipment storage to different locations on the property, and moved their employee parking to the informal gravel parking area immediately adjacent to the roadway on the property at 1102 Massachusetts Avenue. The business currently performs landscaping design and construction, including maintenance, stone work, and paving. However, for the main part of the operation at the site, Lawn Barber, Inc. cuts a significant amount of stone at the property for usage at jobs sites in Massachusetts and southern New Hampshire. Much of this stone cutting has been conducted outdoors on the property with block saws. In April of 2015, the Applicant applied for and was awarded a Building Permit to construct a 40 foot by 40 foot “hoop house/tent garage/green house” structure, which now currently houses a large veneer pro saw and three block saws. The Applicant is seeking Site Plan Approval to legalize the expansion of their business operations, the **construction of a hoop house addition to the garage**, the relocation of parking spaces, the repositioning of landscape and masonry materials, and other site improvements.

3. Nature of Application: Section 8000 of the Boxborough Zoning Bylaw states that for commercial, business, or industrial purposes (as well as many other uses), no permit for construction or relocation which results in a substantial alteration, and no existing use shall be extended, unless Site Plan Approval has been granted by the Planning Board. The Building Permit for the hoop house **building** should not have originally been issued without Site Plan Approval from the Planning Board. Additionally, the relocation of the parking spaces towards the front of the property at 1102 Massachusetts Avenue and the general expansion of the business operations should have received Site Plan Approval as well prior to these changes occurring. The Applicant is now seeking approval to legalize the expansion of the business, the **construction of a hoop house addition to the garage**, and the relocation of various parking and storage items around the property.

4. Surrounding Neighborhood: The subject parcels are located in an Industrial-Commercial Zoning District in west-central Boxborough on the south side of Massachusetts Avenue/Route 111. To the west of the subject site are two properties with two residential dwellings and a number of automotive repair businesses. To the southwest, the land is occupied by the business National Technical Systems, Inc. who perform a variety of testing on various products, and immediately to the south is a large wetland area. To the east is a Business-1 Zoning District with a custom cabinetry and woodworking business, a saw mill, and a retail gun store. Southeast of the subject site are two, and soon to be three, residential dwellings located on Sara’s Way and beyond them are the single-family residences located on Hughes Lane. Across Massachusetts Avenue to the north is a Business Zoning District consisting of primarily of wetlands, but it does contain one single-family dwelling.



Existing Hoop House **Building** (left) and CMU Garage Building at 1034 Massachusetts Avenue



Hoop House **Building** (Looking East) at 1034 Massachusetts Avenue





Yonani Veneer Pro Saw (Left Photo) and Three MK 5000 Block Saws (Right Photo)



Parking Area on 1102 Massachusetts Avenue along Massachusetts Avenue/Route 111



Material Storage at 1034 Massachusetts Avenue





Material and Product Storage on 1102 Massachusetts Avenue



5. Comments:

*Board of Selectmen:* In a letter to the Planning Board dated June 6, 2016, the Board of Selectmen asked the Planning Board to take cognizance of and request the Applicant to demonstrate compliance with a number of items at the property. In general, the Board of Selectmen's concern is that Lawn Barber, Inc. has expanded its use of the site substantially in the last few years and that such expanded use has challenged the owner's ability to recognize and comply with application regulations. As such, the Board of Selectmen strongly urged the Planning Board to conduct a thorough review of the site and its operations for compliance with the Zoning Bylaws and to complete the review and issue a decision as expeditiously as possible.

*Board of Health:* In a memorandum to the Planning Board dated March 31, 2016, the Board of Health Agent indicated the following:

"This office has reviewed the site plan for the above mentioned property and has the following concerns.

Sewage Disposal

I have reviewed the file in the Board's office and can find no permit for the sewage disposal system for the site. The Title 5 inspection done for the site indicates that it was designed for office space; the report indicates the system has a 500 gallon tank and small leaching area. The activity on the site is significantly different than the original business and the Board has no record of working being done on the existing sewage disposal system to accommodate for the increase in business. The Police Chief has sent a photo showing what appears to be improper bathroom use behind a storage container on the site.

Given the increase in the activity on the site, the age and size of the current sewage disposal system and the improper bathroom use on site I would recommend the following.

- 1.) Provide bathroom room facilities on site for the workers.
- 2.) Install a sewage disposal system to handle the capacity of the site.

Water Supply

The site plan indicates there are 27 individuals who work for the business at this location. The MA Department of Environmental Protection (DEP) defines a public water supply as a supply that serves more than 25 people for more than 60 days. It would appear the site should have a public water supply approved by the DEP. I would recommend the Board refer the owner to the DEP to determine if the operations at the site would require the property to have a public water supply.

Pollution Potential

There are a number of potential sources of pollution on the site. In accordance with 310CMR7.00 Air Pollution Control regulations it is a violation of these regulations for an individual to create a "condition of air pollution." The business operation must comply with these regulations.

*7.01: General Regulations to Prevent Air Pollution (1) No person owning, leasing, or controlling the operation of any air contamination source shall willfully, negligently, or through failure to provide necessary equipment or to take necessary precautions, permit any emission from said air contamination source or sources of such quantities of air contaminants which will cause, by themselves or in conjunction with other air contaminants, a condition of air pollution.*

*AIR POLLUTION means the presence in the ambient airspace of one or more air contaminants or combinations thereof in such concentrations and of such duration as to: (a) cause a nuisance; (b) be*



*injurious, or be on the basis of current information, potentially injurious to human or animal life, to vegetation, or to property; or (c) unreasonably interfere with the comfortable enjoyment of life and property or the conduct of business*

If there are floor drains in the garage building they need to be connected to an industrial water holding tank in accordance with 310 CMR 18.00.

*18.01: Purpose The purpose of 314 CMR 18.00 et seq. is to protect the public health, safety and the environment by providing construction, operation, and record keeping requirements for holding tanks, mobile tanks, and containers that accumulate or store industrial wastewater prior to off-site recycling, treatment or disposal. 314 CMR 18.00 directs owners and operators of industrial wastewater holding tanks to comply with these standards, submit a performance-based compliance certification, and keep necessary records.*

*Industrial Wastewater means waste in liquid form resulting from any process of industry, trade or business, regardless of volume or pollutant content. Waste in liquid form consisting of only sewage is not industrial wastewater.*

All hazardous materials must be handled/disposed of in compliance with Federal, State and local regulations.”

Building Department: In an email to the Town Planner on July 14, 2016, the Building Inspector indicated the following:

“I have been looking through Norton Remmer’s report relative to code compliance for the above subject property, and have noted these items are still outstanding as follows:

- 1) The membrane used for the covering of the hoop house must meet fire propagation criteria of NFPA 701.
- 2) Emergency lighting (EBU battery backup) must be installed in the hoop house (will need to physically verify).
- 3) Fire extinguisher and signage is required within the hoop house (will need to physically verify).
- 4) Structural report relative to the pony walls supporting the hoop house structure.
- 5) Footings relative to the pony walls and structure.
- 6) Acoustical Engineers sound evaluation of interior and exterior.

Additionally, I have not received any reports or receipts from Lawn Barber Inc. as to how/where the slurry is being removed.

Please be advised this does not infer, as there may be other outstanding issues.

If you need any additional information please feel free to contact me.”

*Conservation Commission:* The Conservation Commission Chair indicated the Commission had “no wetlands interests” with regard to the application as discussed at their March 28, 2016 meeting.

***After reviewing an updated Site Plan from August 1, 2016, the Conservation Commission Chair indicated the following to the Town Planner in an email on August 4, 2016:***

***“The proposed activity/alteration involving plantings and boulders in the "parking area" in the buffer zone will require an NOI filing. This is clearly a previously disturbed area, but with questionable past use with regard to calling it existing nonconforming. We understand that this will (or has been) be***

***strongly challenged by abutter L. White (he was at our meeting last night) and we would like to know what information the PB or others have gathered on the status of the "parking area".***

***We are also aware of wetlands on the north side of Route 111 that may have buffer zone projecting into the site plan area.***

***We are also concerned with the "containment" of slurry on the south side of site that is outside of the buffer but was the source of the violation resulting in the Enforcement Order. We recall that our jurisdiction under the Enforcement Order may extend to the source of the violation which would be the existing and/or proposed slurry "containment" or "management system". We may need to raise this issue as part of the review and may need to refer to Counsel on this concern (we have previous emails from Counsel, Places and Oxbow commenting on our jurisdiction extending to the source)."***

***Consulting Engineer:*** On April 5, 2016, Places Associates, Inc. submitted a peer review memorandum of the Site Plan Approval application to the Planning Board which identifies a number of issues which need to be addressed by the Applicant. ***On July 15, 2016, Places Associates, Inc. submitted an updated peer review memorandum based upon the Site Plan submitted by the Applicant on July 14, 2016, which addressed some of the Consulting Engineer's concerns, but not all. This memorandum was reviewed and discussed by the Planning Board at their July 18, 2016 meeting.***

***Fire Department:*** The Fire Chief did not provide any comments regarding the proposed project.

***Police Department:*** In an email to the Town Planner on March 17, 2016, the Police Lieutenant indicated "I reviewed the site plan and see no issues with the regard to the Police Department." However, at the public hearing on April 4, 2016, Police Chief Warren Ryder indicated he had public safety concerns regarding deliveries to the business as many times large trucks which make deliveries obstruct traffic on Route 111/Massachusetts, creating potentially dangerous situations.

***Historical Commission:*** The Commission did not provide any comments regarding the proposed project.

***Housing Board:*** The Board did not provide any comments regarding the proposed project.

***Littleton Electric Light Department:*** In an email to the Town Planner on March 22, 2016, the Littleton Electric Light Department (LELD) indicated the following:

***"LELD can service this new facility from the existing transformer on the site. All work has been completed to accommodated this facility."***

***In emails to the Town Planner on August 16<sup>th</sup> and August 23, 2016, the Littleton Electric Light Department (LELD) indicated the following:***

***"We have an underground line from pole #95 that feeds the existing transformer on site. With that being said, we would not like anything to be built on top of the underground cable as shown (approximately) in red on the attached drawing. We ask that our new construction requirements (see attached) be followed throughout the duration of the project. LELD can accommodate this facility with the existing transformer."***

***Public Work Department:*** The Public Works Director did not provide any comments regarding the proposed project.

***School Committee:*** The Committee did not provide any comments regarding the proposed project.



## **II. Compliance with Section 7100 Wetlands and Watershed Protection District (W-District) and Section 7200 Lands Bordering the W-District**

At the 2016 Annual Town Meeting, this section of the Zoning Bylaw was deleted and therefore compliance with this section of the Bylaw is no longer applicable. However, it should be noted here, that *according to the most recently submitted Site Plan dated August 22, 2016, the proposed activity/alteration involving plantings and boulders around the parking area along Massachusetts Avenue/Route 111 would require a Notice of Intent (NOI) filing with the Conservation Commission prior to this work occurring because it is located within the 100 foot buffer to the adjacent pond.* The Applicant is also currently working with the Conservation Commission to address the illicit discharge of wastewater slurry onto the adjacent property and into a nearby wetland. The activities which caused this illicit discharge have been ceased and relocated to a location where the wastewater can be properly managed.

## **III. Compliance with Section 8007 Site Plan Approval Decision**

The Applicant has submitted plans consistent with Sections 8005 and 8006 of the Boxborough Zoning Bylaw and the Site Plan Approval Rules & Regulations. The Planning Board should review the proposed project for consistency with the following Site Plan Approval Requirements of the Zoning Bylaw:

### 1. The proposal shall comply with the purpose and intent of the Zoning Bylaw and with existing local and regional plans.

Landscaping contractor businesses *and manufacturing uses are* permitted uses in the Industrial-Commercial Zoning District, and these are both uses that are well located on Massachusetts Avenue/Route 111. The location of parking spaces shown on the submitted Site Plan were either approved as part of the 2005 Site Plan Approval or are pre-existing nonconforming spaces. The Applicant is proposing to maintain the nine (9) surface parking spaces on the adjacent property at 1102 Massachusetts Avenue closest to the pond, which is sufficient to accommodate the employees at the business. Based upon the most recently updated Site Plan, the Applicant has indicated the property will only have 12 employees on-site. Additional parking spaces are being provided for on-site to accommodate eight other vehicles associated with the business as indicated on the most recently updated Site Plan.

The recently constructed hoop house **building** was originally permitted as an accessory building and should *have been* setback 10 feet from the side lot line and other **buildings** on the property. However, as is noted above, the current Building Inspector has determined the hoop house **building** is actually being used as a principal building because it contains the principal use of the business, stone cutting. As such, the location of the hoop house should be in compliance with the setbacks outlined in the dimensional schedule *of* Section 5002. This portion of the Zoning Bylaw calls for 50 foot front, side, and rear yard setbacks for principal buildings in the Industrial-Commercial Zoning District. *As can be seen on the most recently updated Site Plan, the Applicant is proposing to connect the hoop house building to the pre-existing nonconforming garage. Additionally, as can also be seen on the updated Site Plan, the land which the Applicant has under agreement with the adjacent property owner will bring the hoop house portion of the connected building into compliance with the setback requirements of the Zoning Bylaw.*

It should be noted here that in the 2005 Special Permit Decision issued by the Zoning Board of Appeals and in the 2005 Site Plan Approval issued by the Planning Board, the CMU garage building was deemed to be a pre-existing nonconforming principal building. This interpretation has been substantiated by the Building Inspector in his email to the Town Planner on March 31, 2016. The office building at the front of the property is also a pre-existing nonconforming structure as it was the first building erected at the property.

2. The development shall be integrated into the existing terrain and surrounding landscape and shall be designed to protect abutting properties and community amenities. To the extent possible, building sites shall be designed to minimize the use of wetlands, steep slopes, floodplains, hilltops; minimize obstruction of scenic vistas from publicly accessible locations; preserve unique natural, scenic and historic features; minimize tree, soil and vegetation removal; and maximize open space retention.

The hoop house **addition** has been located on the project site in a location where it is substantially screened from the roadway and many of the abutting properties by the other buildings on the property, surrounding terrain, and vegetation **on adjacent parcels**. The area Lawn Barber, Inc. is leasing and has under agreement on 1102 Massachusetts Avenue is somewhat higher than the floor elevation of the hoop house **addition** and the CMU garage screens the **addition** almost entirely from roadway. While the subject property has been mostly cleared of mature vegetation for some time, the vegetation on adjacent properties provides a substantial buffer to the neighboring businesses and residences. However, the elevation of properties to the east and southeast of the project site are somewhat higher, which does make the hoop house **somewhat** more visible from these locations **during the winter months** when the vegetation has thin or absent foliage. The hoop house **addition** and new site layout does not appear to disturb any wetlands or their 100 foot buffer areas, steep slopes, or floodplain areas. However, the proposed **activity/alteration involving plantings and boulders around the parking area along Massachusetts Avenue/Route 111, does involve some disturbance to the 100 foot buffer area of an adjacent pond. On the other hand, these proposed plantings and boulders do provide a substantial screening benefit for those same parking spaces.**

3. Architectural style shall be in harmony with the prevailing character and scale of buildings in the neighborhood and the Town through the use of appropriate building materials, screening, breaks in the roof and wall lines, and other architectural techniques. Proposed buildings shall relate harmoniously to each other.

The one-story hoop house **addition** is in keeping with scale of other structures in the area which are also primarily one- and two-story buildings. The hoop style of the **addition** is somewhat out of character with other buildings and structures in the area, as the majority of other buildings have peaked roofs with varying pitches. **However, this type of variety in building style/type is often found in industrially zoned areas due to the diversity of uses in these areas.** Other business structures in the area are typically warehouse-style buildings made of metal with few windows. **However,** the hoop house **addition** does **relate** to the other buildings and structures on the property at 1034 Massachusetts Avenue which consist of CMU or brick materials **and temporary storage containers/areas which enclose material used in the stone cutting process. These types of structures are typically found at landscaping businesses.**

4. Adequate measures shall be proposed to prevent pollution of surface and ground water, to minimize erosion and sedimentation, to prevent changes in groundwater levels, to minimize potential for flooding, and to provide for stormwater drainage consistent with the functional equivalent of the Planning Board's Subdivision Rules & Regulations.

In March of 2016, it was discovered the Applicant had been discharging wastewater slurry from their stone cutting operations off of their property onto the adjacent parcel at 1120 Massachusetts Avenue and into a nearby wetland. On March 11, 2016, a Cease & Desist Order pertaining to all stone cutting operations was placed on the property by the Building Inspector. The Applicant has claimed this slurry discharge was the result of stone cutting saws operating outdoors and the wastewater system (pits) which was intended to contain this slurry had over flown and leaked onto the adjacent property. It appears this activity had been occurring for more than the past year. The recently erected hoop house structure contains a pitched floor, trench drain, and water recycling tank system which contains all of the wastewater generated from **the** stone cutting saws which operate inside of the hoop house. Sediment is cleaned out from the trench drain daily and from the outside tanks periodically as needed. The Town

Planner is proposing a condition of the Site Plan Approval which would require all stone cutting operations to occur inside a structure where an appropriate wastewater system is located.

Other modifications to the property will not **negatively** impact the stormwater drainage at the site or **increase** the potential for flooding in the area. ***As part of the most recently submitted Site Plan, the Applicant is proposing to install a rain garden just east of the nine space parking area along Massachusetts Avenue/Route 111. This rain garden would capture and treat some of the stormwater runoff from the northern half of the project site. Additionally, at the rear of the property, the Applicant is proposing to install a siltation collection area which will capture sediment from the stormwater runoff from the southern half of the property. This will help treat the stormwater which then travels further south into the nearby wetland area.***

5. Roadways and circulation system shall be designed to promote convenience and safety for both pedestrians and vehicles. Access roads by which the proposed development is reached shall be adequate in width, grade and construction to carry, without danger or congestion, the additional traffic that is generated from the development.

There were no changes to the access road to the project site from Massachusetts Avenue/Route 111 as a result of the construction of the hoop house and other site modifications. The hoop house provided an overhead covering for the stone cutting operations which were already ongoing at the property. The new **building addition** does not result in any new employees coming or going from the site as it simply provides a new work environment for those workers cutting stone by enclosing those activities. In fact, as part of this Site Plan Approval application process, the Applicant is reducing the number of employees at the site to 12 from the original number of 27.

6. Adequate buffers shall be provided to protect abutting properties from lighting, sight, sound, dust, and vibration.

As noted above, other business operations are located to the east, west, and southwest of the subject property. However, there are a number of single-family dwellings nearby on Sara's Way, Hughes Lane, and to the west along Massachusetts Avenue/Route 111. In **most** instances these residential dwellings are well buffered by significant amounts of vegetation **on the adjacent properties**. The rear of the project site abuts an expansive woodland and wetland area. Currently, there is only minimal lighting at the property for security purposes in the evening and the Applicant is not proposing any changes to the existing lighting situation. However, the Town Planner is proposing a condition which would require all exterior lighting to be confined to the subject property and must not intrude, interfere, or spill onto neighboring properties. To address noise concerns associated with the Applicant's business, the Town Planner is proposing a condition which requires all stone cutting to occur inside a structure(s). There is also a proposed condition which requires all stone cutting operations at the business and deliveries of any kind to only occur between the hours of 7:00 AM and 5:00 PM, Monday through Friday, and from 8:00 AM to 1:00 PM on Saturdays. Furthermore, a third proposed condition requires the Applicant/Owner to pay all fees for the Town to work with an Acoustic Consultant, selected by the Town, to conduct a 30 day sound test of the business operations to confirm compliance with the Zoning Bylaw after a Site Plan Approval Decision has been issued.

7. Adequate facilities shall be provided for water supply and for handling and disposal of waste and other production by-products.

The Board of Health Agent has reviewed the property file in the Board of Health's office and can find no permit for the sewage disposal system for the site. The Title 5 inspection completed for the site indicates it was designed for office space, and the report states the system has a 500 gallon tank and small leaching area. The activity on the property is significantly different than the original business and the Board of Health has no record of work being done on the existing sewage disposal system to accommodate for the



increase in business. The Police Chief has sent a photo showing what appears to be improper bathroom use behind a storage container on the site. Given the increased activity on the property, the age and size of the current sewage disposal system, and the improper bathroom use on-site, the Board of Health Agent recommends a bathroom be provided on-site for employees and a new sewage disposal system be installed to handle the site's capacity. The Board of Health Agent also had concerns about the potential for air pollution (noise, odors, etc.) and the handling/disposal of hazardous materials. As such, the Town Planner is recommending a number of conditions be included as part of the Site Plan Approval to address these issues and they are listed below.

8. Any new building construction or other site alteration shall provide adequate access to each structure for fire and service equipment.

The new hoop house **addition** does not limit access for fire and service equipment to any of the other existing structures on the site. The hoop house **addition** was **attached** behind the existing CMU garage building and was located in an area which was previously being used for material storage and cutting operations. The Fire Chief has not provided any comments on the new Site Plan.

#### **IV. Recommendation**

##### **Site Plan Approval under Section 8000**

At this time, the Town Planner is recommending the Planning Board wait to receive comments from the Town's Consulting Engineer on the most recently submitted Site Plan dated **August 22, 2016** before rendering a decision on the application. The Town Planner is also recommending the following draft conditions be considered for inclusion by the Planning Board when a final decision is rendered for the application:

1. ***Approval is based upon the following Plans and Documents:***
  - a. ***Site Plan in Boxborough, Massachusetts dated May 23, 2016 and revised through August 22, 2016, prepared by Stamski and McNary, Inc. with a Planning Board date stamp of August 22, 2016.***
  - b. ***PB00260R4 Freestanding Building Plans (Sheets A1-1.0, B1-1.0, C1-1.0, D1-1.0, E1-1.0, H1-1.0, and ClearSpan 38' Wide Pony Wall Building) dated February 6, 2006 and revised through February 10, 2006, prepared by ClearSpan Engineering Services & Products Co. with Planning Department date stamps of September 29, 2015.***
  - c. ***Stormwater Operation and Maintenance Manual dated August 22, 2016, by Stamski and McNary, Inc. with a Planning Board date stamp of August 22, 2016.***
2. ***The Applicant/Owner shall record the Decision with the Middlesex South Registry of Deeds and provide verification of recording to the Town Planner within 60 days of the date of this Decision.***
3. ***The Applicant/Owner shall obtain all necessary zoning approvals for the Site Plan of the property which may include but not be limited to applicable Variances, Special Permits, or other zoning relief, within 120 days of the date of this Decision, provided however, that if the Applicant/Owner having used reasonable efforts is unable to comply in the aforesaid timeframe, upon request of the Applicant/Owner the Planning Board may extend the timeframe for compliance as may be reasonably necessary.***
4. ***The Applicant/Owner shall file an Approval Not Required (ANR) Plan with the Planning Board within 30 days of the date of this Decision to formalize the lot line change on the western boundary of the property. This ANR Plan and associated executed deed to the additional property shall be recorded with the Middlesex South Registry of Deeds and verification of recording shall be provided to the Town Planner within 90 days of the date of this Decision.***

5. *The Applicant/Owner shall submit written confirmation from the Tax Collector that all taxes, including any roll back taxes, have been paid in full for the property within 30 days of the date of this Decision.*
6. *The Applicant/Owner shall obtain a new Certificate of Use and Occupancy from the Building Department for the property within 90 days of the date of this Decision, provided however, that if the Applicant/Owner having used reasonable efforts is unable to comply in the aforesaid timeframe, upon request of the Applicant/Owner the Planning Board may extend the timeframe for compliance as may be reasonably necessary.*
7. *The Applicant/Owner shall file a Notice of Intent (NOI) with the Conservation Commission and receive an Order of Conditions, or Superseding Order of Conditions, issued under the Wetlands Protection Act and be subject to any conditions placed on the project and provide a copy of a recorded Order of Conditions, or Superseding Order of Conditions to the Building Inspector within 90 days of the date of this Decision, provided however, that if the Applicant/Owner having used reasonable efforts is unable to comply in the aforesaid timeframe, upon request of the Applicant/Owner the Planning Board may extend the timeframe for compliance as may be reasonably necessary.*
8. *The Applicant/Owner shall install or make modifications to the existing on-site sewage disposal system to handle the capacity of the site and receive approval from the Board of Health within 90 days of the date of this Decision, provided however, that if the Applicant/Owner having used reasonable efforts is unable to comply in the aforesaid timeframe, upon request of the Applicant/Owner the Planning Board may extend the timeframe for compliance as may be reasonably necessary.*
9. *The Applicant/Owner shall return before the Planning Board to finalize and receive approval for the details of the proposed building connection between the garage and the hoop house building within 30 days of all applicable zoning approvals being obtained.*
10. *The Applicant/Owner shall obtain compliance with all local and State regulations for the stone slurry wastewater system tanks and other tanks at the property within 90 days of the date of this Decision, provided however, that if the Applicant/Owner having used reasonable efforts is unable to comply in the aforesaid timeframe, upon request of the Applicant/Owner the Planning Board may extend the timeframe for compliance as may be reasonably necessary.*
11. *The Applicant/Owner shall install the proposed siltation collection area as indicated on the Site Plan within 30 days of the date of this Decision, provided however, that if the Applicant/Owner having used reasonable efforts is unable to comply in the aforesaid timeframe, upon request of the Applicant/Owner the Planning Board may extend the timeframe for compliance as may be reasonably necessary.*
12. *The operation of the facility cannot create a public health nuisance nor create noise or odors that would be considered a “condition of air pollution” in accordance with 310 CMR 7.00 or other applicable State and Federal ordinances governing noise.*
13. *All hazardous materials must be handled/disposed of in compliance with Federal, State, and local regulations.*
14. *The Applicant/Owner shall pay all fees for the Town to work with an Acoustic Consultant, selected by the Town, to conduct a 30 day sound test of the business operations to confirm compliance with*

*the Zoning Bylaw. The 30 day sound test shall be conducted within 90 days of the date of this Decision.*

- 15. All operations at the business related to the cutting of stone (cutting, splitting, delivery, relocation, and reorganization of stone, stone products, and storage containers/areas, cleanup of machinery and the site in general, and similar activities) and deliveries of any kind which make significant noise shall only occur between the hours of 7:00 AM and 5:00 PM Monday through Friday, and from 8:00 AM to 1:00 PM on Saturdays.*
- 16. All stone cutting operations (the use of stone cutting saws) at the property, with the exception of stone splitting, shall occur within a building(s) and contain appropriate wastewater drainage/recycling systems. All doors to the building(s) where the stone cutting is occurring shall remain closed at all times when cutting is taking place.*
- 17. The Applicant/Owner shall submit disposal receipts to the Building Department at least quarterly (every three (3) months) showing the stone slurry wastewater system has been cleaned/emptied/pumped at least once every three (3) weeks.*
- 18. The Applicant/Owner shall allow random monthly inspections of the property by the Building Inspector and/or Planning Board designee to confirm the stone slurry wastewater system and the siltation collection area are functioning adequately and being maintained properly.*
- 19. There shall be no automotive repair of any kind conducted on the property which is the subject of this application.*
- 20. There shall be no more than 12 employees on-site at any time and one (1) parking space shall be provided for each employee. In addition, no more than eight (8) registered vehicles associated with the business shall be stored on the property overnight.*
- 21. Parking in front of the brick office building shall be prohibited on the property at 1034 Massachusetts Avenue.*
- 22. There shall not be any loading, unloading, or vehicle parking within the Massachusetts Avenue/Route 111 right-of-way.*
- 23. The Applicant/Owner shall only maintain nine (9) parking spaces in the pre-existing nonconforming parking area along Massachusetts Avenue/Route 111 and shall only park nine (9) vehicles in this area. This nine (9) space parking area shall be lined along its boundaries with sizable stones or the like to formalize the limits of the parking area within 60 days of the date of this Decision, provided however, that if the Applicant/Owner having used reasonable efforts is unable to comply in the aforesaid timeframe, upon request of the Applicant/Owner the Planning Board may extend the timeframe for compliance as may be reasonably necessary.*
- 24. The Applicant/Owner shall restore the gravel parking area between the eastern most parking space on 1102 Massachusetts Avenue and the western property boundary of 1034 Massachusetts Avenue to grass/vegetation/landscaping within 60 days of the date of this Decision, provided however, that if the Applicant/Owner having used reasonable efforts is unable to comply in the aforesaid timeframe, upon request of the Applicant/Owner the Planning Board may extend the timeframe for compliance as may be reasonably necessary.*
- 25. The planting species to provide screening around the parking spaces along Massachusetts Avenue/Route 111 as shown on the approved Site Plan shall be verified, finalized, and installed in consultation with the Town Planner within 60 days of the date of this Decision, provided however,*



*that if the Applicant/Owner having used reasonable efforts is unable to comply in the aforesaid timeframe, upon request of the Applicant/Owner the Planning Board may extend the timeframe for compliance as may be reasonably necessary.*

26. *The stone wall along the western property boundary of 1034 Massachusetts Avenue in front of the office building shall be removed in its entirety or formalized to meet all applicable regulations within 60 days of the date of this Decision, provided however, that if the Applicant/Owner having used reasonable efforts is unable to comply in the aforesaid timeframe, upon request of the Applicant/Owner the Planning Board may extend the timeframe for compliance as may be reasonably necessary.*
27. *The Applicant/Owner shall remove the portion of the stone pile from the property at 1120 Massachusetts Avenue and install the proposed block wall along the rear property line as indicated on the Site Plan within 30 days of the date of this Decision, provided however, that if the Applicant/Owner having used reasonable efforts is unable to comply in the aforesaid timeframe, upon request of the Applicant/Owner the Planning Board may extend the timeframe for compliance as may be reasonably necessary.*
28. *All existing donation bins on 1102 Massachusetts Avenue between the pond and the western boundary of 1034 Massachusetts Avenue shall be removed within 60 days of the date of this Decision and no new bins shall be installed in this area, provided however, that if the Applicant/Owner having used reasonable efforts is unable to comply in the aforesaid timeframe, upon request of the Applicant/Owner the Planning Board may extend the timeframe for compliance as may be reasonably necessary.*
29. *Landscaping materials or products shall not be stored within the 50 foot front yard setback and shall be kept in an orderly fashion in all other areas at the subject property. No retail sale of landscaping materials shall take place at the site.*
30. *The Applicant/Owner shall frame out the ceiling height of the shed at the rear of the property and a portion of the mezzanine area in the garage building to the approval of the Building Inspector to comply with the 0.1 Floor Area Ratio (FAR) requirement for the property within 90 days of the date of this Decision, provided however, that if the Applicant/Owner having used reasonable efforts is unable to comply in the aforesaid timeframe, upon request of the Applicant/Owner the Planning Board may extend the timeframe for compliance as may be reasonably necessary.*
31. *To the extent possible, all exterior lighting must be confined to the subject property, cast light downward, and must not intrude, interfere or spill onto neighboring properties.*
32. *The Applicant/Owner shall pay all outstanding fees incurred for the Board's consultants including Town Counsel, the Acoustic Consultant, and the Board's Consulting Engineer, for the performance of any of the review and inspection services contemplated herein, and including any such fees incurred prior to the date of this Decision.*
33. *Violation of any of the conditions of this Decision shall be grounds for revocation of this Decision, or of any building or occupancy permit granted hereunder. In case of any violation of the continuing obligations of this Decision, the Town will notify the owner of such violation and give the owner reasonable time, not to exceed thirty (30) days or such additional time as may be reasonably necessary as determined by the Planning Board, to correct the violation and to enforce the conditions of this Decision. The Town may enforce compliance with the conditions of this Decision by any action of injunctive relief before any court of competent jurisdiction.*